

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

CRIMINAL NO. 1:14CR60-1
(Judge Keeley)

MARIO WALTON,

Defendant.

ORDER ACCEPTING AND ADOPTING MAGISTRATE JUDGE'S
OPINION/REPORT RECOMMENDATION CONCERNING PLEA IN A
FELONY CASE [DKT NO. 36] AND SCHEDULING THE SENTENCING HEARING

On October 8, 2014, defendant, Mario Walton ("Walton"), appeared before United States Magistrate Judge John S. Kaul and moved the Court for permission to enter a plea of GUILTY to Count Three of the Indictment. Walton stated that he understood that the magistrate judge is not a United States district judge and voluntarily waived his right to have an Article III judge hear and accept his plea and voluntarily consented to entering a guilty plea before the magistrate judge.

Based upon Walton's statements during the plea hearing and the stipulation of the parties to accept the proffer of the government as an independent factual basis for the guilty plea, the magistrate judge found that Walton was competent to enter a plea of guilty, that the plea was freely and voluntarily given, that Walton was aware of the nature of the charges against him and the consequences

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of his guilty plea, and that a factual basis existed for the tendered plea.

On October 9, 2014, the magistrate judge entered an Order/Report and Recommendation Regarding Plea of Guilty ("Order/R&R") (dkt. no. 36) finding that a factual basis for the plea existed, and accepting Walton's plea of guilty to Count Three of the Indictment. His Order/R&R directed the parties to file any written objections to the Order/R&R within fourteen (14) days after service. It further directed that failure to file objections would result in a waiver of the right to appeal from a judgment of this Court regarding the Order/R&R. The parties have not filed any objections.

Accordingly, this Court **ACCEPTS** the magistrate judge's Order/R&R and **ADJUDGES** MARIO WALTON **GUILTY** of the crime charged in Count Three of the Indictment, and pursuant to Fed. R. Crim. P. 11(c)(3)(A) and U.S.S.G. § 6B1.1(c) **DEFERS** acceptance of the proposed plea agreement until the Court has received and reviewed the presentence report prepared in this matter.

Pursuant to U.S.S.G. § 6A1 et seq.:

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1. The Probation Officer shall undertake a presentence investigation of **MARIO WALTON** and prepare a presentence report for the Court;

2. The Government and Walton are to provide their versions of the offense to the probation officer by **November 3, 2014**;

3. The presentence report is to be disclosed to Walton, defense counsel, and the United States on or before **December 12, 2014**; however, the Probation Officer is not to disclose the sentencing recommendations made pursuant to Fed. R. Crim. P. 32(e)(3);

4. Counsel to file written objections to the presentence report on or before **December 22, 2014**;

5. The Office of Probation shall submit the presentence report with addendum to the Court on or before **January 5, 2015**; and

6. Counsel may file any written sentencing statements and motions for departure from the Sentencing Guidelines, including the factual basis from the statements or motions, on or before **January 16, 2015**.

The magistrate judge remanded Walton to the custody of the United States Marshals pending further proceedings.

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The Court will conduct the sentencing hearing on **Monday, January 26, 2015 at 9:30, A.M.** at the **Clarksburg, West Virginia** point of holding court.

It is so **ORDERED**.

The Court directs the Clerk to transmit copies of this Order to counsel of record and all appropriate agencies.

DATED: October 20, 2014

/s/ Irene M. Keeley
IRENE M. KEELEY
UNITED STATES DISTRICT JUDGE